IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 2890 OF 2007

Mukesh Ramakant Pawar.... Petitioner

versus

Camp Education Society
Pune and anr. ..... Respondent.

Shri Amit Borkar i/b Viresh Purwant for the petitioner

CORAM; A.P. DESHPANDE, J.
DATED; 26TH JUNE, 2007

P.C.;

1. The petitioner was working as a junior clerk in a Vocational Section of the school administered by the respondent society. The petitioner was proceeded against in a departmental enquiry on serious charges of misconduct, which are in the nature of (i) coming to the school after consuming liquor in an intoxicated state, the petitioner's conviction in a criminal case for disorderly behaviour in a public place under the influence of liquor, persistent negligent in the performance of the duty, availing of leave without its sanction repeatedly and intermittently for a long span of time. The enquiry committee conducted the departmental enquiry and recommended punishment of termination of service. Aggrieved by the order passed by the respondent terminating the service of the petitioner, he filed an appeal to the school Tribunal.

The school Tribunal has found the decision of the enquiry committee to be based on evidence led by the respondent management, and thus dismissed the appeal. Aggreived thereby this writ petition has been filed.

2. Then learned counsel for the petitioner submits that one Arvind Telang had a bias against the petitioner and he acted as a Presenting Officer on behalf of the management for proving the charges. The learned counsel candidly submits that the enquiry committee which comprises of one Mr. Walchand Sancheti as Convener and Shri Patil the State awarde teacher. The objection in regard to bias could be raised against the members of the enquiry committee, who are the decision making authorities. The objection of bias cannot be raised against a Presenting officer. As Arvind Telang was not a decision making authority, even if he has bias the same cannot result in adverse judgment or decision against the petitioner. Assuming that there could be an objection of bias raised against the Presenting officer, the law of bias is settled that at the first possible opportunity,the objection in that regard has to be raised. In the present case, the learned counsel for the petitioner submits that for the first time the objection against Arvind Telang is raised in the appeal. Hence there is no merit in the

contention. Writ petition is thus summarily dismissed.

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